




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,331	11/30/2000	Kurt B. Schurenberg	5435-19800	3825
20583	7590	12/01/2004	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			BUI, KIM T	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/734,331	Applicant(s) SCHURENBERG ET AL. 	
	Examiner Kim T. Bui	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Notice to Applicant.***

1. This communication is in response to the amendment filed 08/31/2004. Claims 1-4 have been cancelled. Claims 5-27 have been added.

### ***Specification***

2. The objection to the abstract of disclosure is hereby withdrawn due to the amendment filed 08/31/2004.

### ***Claim Objections***

3. The objection to claim 2 is hereby withdrawn due to the amendment filed 08/31/2004.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) "the specified remote laboratories" on line 7 of claims 5, 11, and on line 9 of claim 17, line 9 lacks proper antecedent basis, "the specified one or more remote laboratories" is suggested.

(B) " the remote laboratories" on line 8 in claims 5, 11, and on line 10 of claim 17 lacks proper antecedent basis. " the one or more remote laboratories" is suggested.

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(C) "the second server interface" on line 14 of claim 23 lacks proper antecedent basis, "the second interface" is suggested.

Dependent claims 6-10,12-16,18-22 and 24-27 incorporate the deficiencies of the claims they depend on and are therefore rejected.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 11, 12, 17, 18, 23, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, Jr. et al (5823948) in view of Coli et al. (6018713).

(A) As per claim 5, Rose, Jr. et al discloses a medical records and order entry method which allows a user to generate orders for lab tests, the program is stored on a server and executed on a client application, and lab test results are electronically sent back to TeleMed system, comprising the steps:

a. providing software interfaces at servers accessible to remote healthcare applications and one or more laboratories. Rose, Jr. et al., Figs 1.4-5, col. 4, line 50 to col. 5, line 13, col. 5, line 33 to col.6, line 22, col. 9, lines 40-53, col. 10, lines 10-42, col. 14, lines 10-40, col. 15, lines 9-16.

b. receiving laboratory requisition for lab tests and others from remote user or healthcare application, sending the requisitions for lab tests and others to specified

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laboratory. Rose, Jr. et al., Figs. 1,4,5, col. 3, lines 52-54, col. 6, lines 11-22, col. 10, lines 11-26.

c. receiving test results from the laboratory and sending it back to the remote healthcare application, Rose, Jr. et al. Figs. 1,4,5, col. 14, lines 10-40.

Rose, Jr. et al does not explicitly recite "remote" healthcare application and laboratories. However, from Fig. 1, it is readily apparent that the station terminals are distant from the servers, and from Fig 4, element 116, the lab computer system is separated from the servers. Furthermore, remote access is suggested on col. 13, lines 1-5 of Rose, Jr. et al. In addition, it is well known to provide Internet based medical order entry system having remote healthcare client computers and remotely located laboratories for test orders and results as evidenced by Coli et al, col. 3, lines 35-42, col. 4, lines 42-61, col. 9, line 40 to col. 10, line 10, col. 13, lines 10-16. It would have been obvious to one having ordinary skill in the art at the time of the invention to include the Internet with the motivation of facilitating communicating and processing of test orders for world wide area.

(B) As per claim 11, Rose, Jr. et al discloses a medical records and order entry system which allows a user to generate orders for lab tests, the program is stored on a server and executed on a client application, and lab test results are electronically sent back to TeleMed system, comprising:

a. software interfaces at servers accessible to remote healthcare applications and one or more laboratories. Rose, Jr. et al., Figs 1,4-5, col. 4, line 50 to col. 5, line 13, col.

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5, line 33 to col.6, line 22, col. 9, lines 40-53, col. 10, lines 10-42, col. 14, lines 10-40, col. 15, lines 9-16.

b. order entry computer network system operable to receive laboratory requisition for lab tests, etc... from remote user or healthcare application, to send the requisition for lab tests, etc... to specified laboratory, to receive test result(s) from the laboratory and sending it back to the remote healthcare application. Rose, Jr. et al., Figs. 1,4,5, col. 3, lines 52-54, col. 6, lines 11-22, col. 10, lines 11-26, col. 14, lines 10-40.

Rose, Jr. et al does not explicitly recite "remote" healthcare application and laboratories. However, from Fig. 1 of Rose, Jr. et al., it is readily apparent that the station terminals are distant from the servers, and from Fig 4, element 116, the lab computer system is separated from the servers. Furthermore, remote access is suggested on col. 13, lines 1-5 of Rose, Jr. et al. In addition, it is well known to provide Internet based medical order entry system having remote healthcare client computers and remotely located laboratories for test orders and results as evidenced by Coli et al, col. 3, lines 35-42, col. 4, lines 42-61, col. 9, line 40 to col. 10, line 10, col. 13, lines 10-16. It would have been obvious to one having ordinary skill in the art at the time of the invention to include the Internet with the motivation of facilitating communicating and processing of test orders for world wide area.

(C) As per claim 17, Rose, Jr. et al discloses a medical records and order entry system and method which allows a user to generate orders for lab tests, the program is stored on a server and executed on a client application, and lab test results are electronically sent back to TeleMed system, comprising the steps for:

- a. providing healthcare application to be executed at user or station terminals to generate laboratory requisition. Rose, Jr. et al., Figs 1, 4-5, col. 4, line 50 to col. 5, line 13, col. 5, line 33 to col. 6, line 22, col. 9, lines 40-53, col. 10, lines 10-42, col. 14, lines 10-40, col. 15, lines 9-16.
- b. receiving laboratory requisition for lab tests, etc... from user terminals specifying lab tests, etc.. to be perform by software interface(s). Rose, Jr. et al., Figs 1, 4, 5, col. 10, lines 10-38.
- c. storing the requisition and other data in a data base. Rose, Jr. et al., col. 1, line 62 to col. 2, line 3, col. 5, lines 33-51, col.5, line 65 to col. 6, line 5.
- d. sending the requisitions for lab teats, etc... to specified laboratory. Rose, Jr. et al., Figs. 1,4,5, col. 3, lines 52-54, col. 6, lines 11-22, col. 10, lines 11-26.
- e. receiving test results from the laboratory and sending it back to the remote healthcare application, Rose, Jr. et al. Figs. 1, 4, 5, col. 14, lines 10-40.

Rose, Jr. et al does not explicitly recite "remote" healthcare application and laboratories. However, from Fig. 1 of Rose, Jr. et al., it is readily apparent that the station terminals are distant from the servers, and from Fig 4, element 116, the lab computer system is separated from the servers. Furthermore, remote access is suggested on col. 12, lines 1-8, col. 13, lines 1-5 of Rose et al. In addition, it is well known to provide Internet based medical order entry system having remote healthcare client computers and remotely located laboratories for test orders and results as evidenced by Coli et al, col. 3, lines 35-42, col. 4, lines 42-61, col. 9, line 40 to col. 10, line 10, col. 13, lines 10-16. It would have been obvious to one having ordinary skill in

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the art at the time of the invention to include the Internet with the motivation of facilitating communicating and processing of test orders for world wide area.

(D) As per claim 23, Rose, Jr. et al discloses a system for laboratory requisition processing system which allows a user to generate orders for lab tests, the program is stored on a server and executed on a client application, and lab test results are electronically sent back to TeleMed system, comprising:

- a. healthcare application to be executed at user or station terminals to generate laboratory requisition, is operable to collect laboratory requisition information, to generate and send lab test orders and others to server(s), to receive test results from laboratory computer system. Rose, Jr. et al., Figs 1, Fig. 4, element 116, Fig.5, col. 4, line 50 to col. 5, line 13, col. 5, line 33 to col.6, line 22, col. 9, lines 40-53, col. 10, lines 10-42, col. 14, lines 10-40, col. 15, lines 9-16.
- b. software interfaces at servers accessible to remote healthcare applications and one or more laboratories, operable to receive laboratory requisition from healthcare application, to retrieve and request laboratory requisition information to healthcare application, to send lab test orders and others to laboratory computer system, and to receive test results from laboratory computer system. Rose, Jr. et al., Fig. 1, Fig. 4, element 116, Fig. 5, col. 4, line 50 to col. 5, line 13, col. 5, line 33 to col.6, line 22, col. 9, lines 40-53, col. 10, lines 10-42, col. 14, lines 10-40, col. 15, lines 9-16.
- c. file servers /storage means for storing the requisition and other data in a data base. Rose, Jr. et al., col. 1, line 62 to col. 2, line 3, col. 5, lines 33-51, col. 5, line 65 to col. 6, line 5.



(E) As per claims 6, 12, 18, Rose, Jr. et al teaches file servers/ storage means for storing the requisition, etc... in a data base. Rose, Jr. et al., col. 1, line 62 to col. 2, line 3, col. 5, lines 33-51, col.5, line 65 to col. 6, line 5.

(E) As per claim 24, Rose, Jr. et al. teaches the health care application is operable to collect laboratory requisition from servers and user. Rose Jr. et al, col. 5, lines 33-51, col. 6, lines 10-22, col. 5, line 65 to col. 6, line, col. 1, line 62 to col. 2, line 3.

8. Claims 7-10,13-16, 19-22, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, Jr. et al and Coli et al. as applied to claims 5, 11, 17, 23 above, and further in view of Moshfeghi et al. (6216104).

(A) As per claims 7-10,13-16, 19-22, 25-27, Rose, Jr. et al and Coli et al fail to recite the type of implemented software interfaces and data objects. However, it is well known to using Common Object Request Broker Architecture (CORBA) and Application Programming Interface API to process and communicate patient data objects in Patient Records Network system as evidenced by Moshfeghi et al. (6216104). Moshfeghi et al, the abstract, Fig. 1, col. 3, lines 1-25, 45-60. It would have been obvious to one having ordinary skill in the art at the time of the invention to include data objects and software interfaces (CORBA and API) with the motivations of facilitating customization of data and flexibility of the software system.

### ***Response to Arguments***

9. Applicant's argument filed on 08/31/2004 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below.

(A) On pages 6-8, applicant argues "remote health care applications" and "remote laboratories". In response, it is the Examiner's position that Applicant argues no specific meaning of the term "remote". As such, the term "remote" should be given its "broadest reasonable interpretation". In Fig. 1 of Rose, Jr. et al., it is readily apparent that the station terminals are distant from the servers, and from Fig 4, element 116, the lab computer system is separated from the servers. Furthermore, remote access is suggested on col. 13, lines 1-5 of Rose, Jr. et al. In addition, it is well known to provide Internet based medical order entry system having remote healthcare client computers and remotely located laboratories for test orders and results as evidenced by Coli et al, col. 3, lines 35-42, col. 4, lines 42-61, col. 9, line 40 to col. 10, line 10, col. 13, lines 10-16.

Regarding the "uninterrupted power supply 20 supplies power to all local systems" and "within the appropriate hospital department" argued by the Applicants on pages 6,7. Examiner respectfully submits that the "power supply" is irrelevant to claim language, "the local system " as well as "the appropriate hospital department" in pat "948" do not imply that the health care applicants/user computers are not separated (i.e. remote) from the server(s). Rose Jr. et al. discloses more than a intradepartmental networks, remote access is on col.2, lines 4-10, col. 5, lines 24-33, col. 12, lines 1-9, col. 13, lines 1-5 etc... Furthermore, within the "the intradepartmental" disclosed by Rose Jr. et., the station terminals are separated (i.e. remote) from the servers ( Rose, Jr. et al, Fig. 1), and the lab computers are clearly remote from the system (Rose, Jr. et al, Fig. 4, element 116). In addition, the application of the Internet wherein client/users, service providers are remotely located from servers are well known as evidenced by Coli et al. as discussed above.

(B) Furthermore, Applicant's arguments with respect to Fuller (62161122) and the web site aboton.com have been considered but are moot because the old ground of rejections based upon these references are no longer maintained. . Applicant's arguments with respect to these references have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "Reusable Object For Scheduling Script Execution In A Compound Document" (5761684), and "Automated Networked Service Request And Fulfillment System" (5995939).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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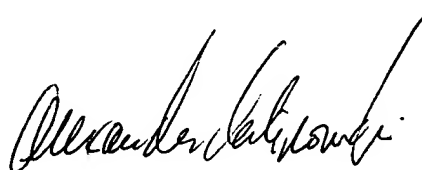
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Bui whose telephone number is 703-305-5874. The examiner can normally be reached on Monday-Friday from 8:30A.M. to 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KTB

11/22/04



**ALEXANDER KALINOWSKI**  
**PRIMARY EXAMINER**